15 In confusion, Thompson states on pg 19 second ¶, that "He (Lawrence) never raised it to the District Court or to the Magistrate", is a bold face lie. Then in Thompson's third ¶ on the same pg 19, he contradicts what he just told this Court. Petitioner's initial cause indicates such 5B manual policies and procedures, Petitioner's pleading 7/01/04, against Thompson's second summary [41-1] indicates on pgs 3 and 14 (c) disciplinary contacts were satisfied which would refer to 2.7 pre-discharge policies within the 5B manual. A vital issue is, if policy 2.7 is apart of the record that supplement from the Magistrate's Court to the Appeals Court, and is 2.7 part of the policies that make up the 5B manual. Thompson failed to mention pg 23 of Petitioner's objection to the Magistrate report dated 8/4/04. Petitioner stated previously he did not meet any unsatisfactory condition applicable to a corrective action, procedural steps, monthly probationary contacts were missed, and the Petitioner was given a stricter review every month rather than every 2 months which violated the 2.7 policy all encompassed the 2.7 Pre-discharge policies. Thompson **vehemently** opposes 2.7 because it establishes violations to employer and employee obligation and agreement, the 5B handbook and DOE contract. The Petitioner was placed on an inappropriate probation, was given written inappropriate informative contacts and skipped to a higher degree in the pre-discharge policy 2.7 and then given illegal stricter monthly probationary contacts doubling the requirement all derived from the policy 2.7 pre-discharge provision.

16 Petitioner's record on appeal raised the issue of 5B manual, DOE contract, the writings embodied in the provision s of the 5B manual and both the magistrate and district judge recognized the existence of the 5B manual and other policies therein but sought to interpret the language of the provisions. See magistrate acknowledging other policies at Writ (App D pgs 43A -45A) See the district judge acknowledging the 2.7 or other policies in the 5B manual at Writ (App C pg 12A, 14A-17A). The 2.7 pre-discharge policy was introduced on pgs 1-3, 14, and as a attached exhibit of the June 5, 2005 record and again in the July 5, 2005 appeals record on pgs. 2, 4, 5, 6, 9 - 12, 19, 20, 23, 24, 26, 28-30.

Petitioner filed Judicial Misconduct against the Magistrate[17]. Thompson stating the mind and intent of the magistrate on pg 10-11 is conclusory. Certainly the record if the intent was a factual basis, would support the 6/14/04 time line to establish in second the briefs a position. Thompson's second summary [**41-1**] is void of his initial allegations.

The record before the court identified Thompson received a copy of the hearing tape to aid him in reducing the recited

facts presented in Court on 6/14/04[18]. Thompson responses from pgs 15 – 18 are plagiarized from the magistrate reports starting from pg 16 – 19[18a].

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17 The Writ on pgs 5 – 15 shows the magistrate biased treatment and allowing Thompson to commit specific violations. See also the Petitioner's **timely filed** objections on 8/04/04 to the magistrate report of **7/19/04** instead of Thompson date of error **7/17/04.**

18 However, Thompson is professionally skilled in altering documents, statements of facts, and deposition statements to offset and diminish the contextual meanings. The Writ record before this Court on pages 14-15 shows Thompson received a copy of the hearing tape and blatantly without shame changes a Court record. See Writ App G 56A- 57A that shows Thompson thanking the Court's clerk for rushing him a copy of the hearing tape which means he specifically knew what the agreed facts were, but again lied to the previous Courts including this Court stating that the changes were inadvertences. Therefore this Court should not accept any further statements from Thompson who has now lied to the highest Court.

18a Thompson used verbatim what the magistrate biasing wrote in his report on 7/19/04. The Answer to the magistrate report in rebuttal is specifically located in the Petitioner's pleading dated 8/04/04, pgs 23 – 34, in the Petitioner pleading on 6/05/05, and finally on 7/05/05 entirely.

Conclusion

Thompson has been untruthful on several issues and has changed, omitted, and altered Court evidence of facts, this Court should enforce what the law allows for these improper practices as the original Court. The Petitioner respectfully ask this Court to uphold stare decsis of the State of South Carolina contract Law which recognizes the exception of the at-will condition and the 5B manual and other manuals that altered the common law status of the state.

Respectfully submitted

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(2)

No. 05-994

In the
Supreme Court of the United States

Christopher Lawrence - *Pro Se* Petitioner

V.

WESTINGHOUSE SAVANNAH RIVER COMPANY LLC - Respondent

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Fourth Circuit

PETITION FOR REHEARING

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TABLE OF CONTENTS

Page

INTRODUCTION 1

I. PETIONER'S PROCEDURAL DUE PROCESS RIGHTS UNDER THE U.S. CONSTITUTION WERE VIOLATED 1-3

II. PRESERVATION OF JUSTICE AND LAW VS FREEDOM TO APPLY COURT RULE 10 3-4

III. IT IS A FUNDAMENTAL RIGHT UNDER THE U.S CONSTITION TO REQUEST A REVIEW WHEN PROCEDURAL DUE PROCESS IS VIOLATED 4

IV. THIS CASE ASSEMBLES ON DISPUTED FACTS AND THE RELEVANCE OF A CONTRACT 4-10

CONCLUSION.....10

INDEX TO APPENDICES A1

TABLE OF AUTHORITIES

CASES **Page**

Curtiss-Wright Corp. v Schoonnejongen, 514.....3

U.S.73, 78, 115 S. Ct 1223,1311. Ed. 2d 94 (1995)

Opinion [578] [14]

See *Feifer v. Prudential Ins. 306 F.3d 1202, 12* 3

2d Cir.(2002).

Conner v. City of Forest Acres, 560 S.E. 2d 606 3

(S.C. 2002)

Small v. Springs Industries 357 S.E. 2d 452 (S.C. 1987)..3

Kumpf v United Telephone 429 S.E. 2d 869 (S.C. App... 3

1993)

Williams v Riedman, 529 S.E. 2d 28 (S.C.App. 2000).... 3

Baril v Aiken Regional Medical Center, 352 S.C. 271,

573S.E. 2d 830 (2002)

Small v. Springs Industries 292 S.C. 481 ,357, S.E. 2d....3

452(1987) (SmallI)

Prescott v Farmers Telephone Cooperative, Inc., 516.....3

S.E. 2d 923 (S.C. 1999)

Board of Trustees of Univ. of Alabama v. Garrett.....5

US Supreme Court, 2/21/0) 737

TABLE OF AUTHORITIES – Continued

Page

CONSTITUTIONAL PROVISIONS

U.S. CONST. amend. XI 1- 4

U.S. CONST. amend. XIV 1- 4

STATUTES

1964 Title VII Act U.S.C.§1983, 1993 ..... 1- 4

Family Medical Leave Act 1993, Section 107 9
§ 825.302, §825.114 and §825.116.

RULES

Sup. Ct. R. 10(a) & 10(c) 1-5, 9-10
Federal R. Civil Procedure 26(f) Discovery 1
Federal R. Civil Procedure 56(c),(e) 1- 6, 10

OTHER AUTHORITIES

Letter to Bishop Mandell Creighton, 1887. 1
Writing of Lord Action

DOE Contract # DE-AC09-96SR18500, pgs C7-C8.....9

WSRC 5B Handbook 1-10
Policies 2.7, 2.9, 2.24, 2.12, and 3-3

Introduction

In each Court, Counsel for the Respondent has presented material which is untrue. The Magistrate, District Judge, and the 4th Circuit Appeals Court have protected the biased judicial authority, hindering proper justice for this case. The same Justices have produced an "up-to-the-minute exception" which allows them to interpret the language embodied in the WSRC 5B manual and DOE contract. This exception allows WSRC to ignore the contents of the 5B handbook, which includes a pre discharge provision. These biases violate previous stare decisis of South Carolina's "employment handbook exception to an *at-will* employee" and usurped interpretation of the DOE contract and Orders[1]

I. Petitioner's Procedural Due Process Rights under the U.S. Constitution were violated

The following Justices; Roberts, Alito, Stevens, Scalia, Kennedy, Breyer, Thomas, Souter, and Ginsburg have not appropriately reviewed the case material presented to the Appeals and the District Courts. Often cases have been reconsidered that involve the departing from a question of law or the constitutionality to clarify the application of the law. In addition, this request should be honored so that more suitable consideration is given in support of the Pro se and material of facts. Attached documentation shows repleted errors[2]. It is a jurisdictional authority of this Court to properly review a case where the lower Court departs from the laws and statutes of S.C. pursuant to; Fed. R. Civ. P.26 F Discovery Plan, 56(c), and "employment exception rule" (Writ, pg.7 middle ¶, pg. 8 bottom ¶ to pg. 9). See supporting documentation (Petitioner's Writ Apx H, Pg.62A-63A)

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1 "Power tends to corrupt, and absolute power corrupts absolutely. Great men are almost always bad men." ~*Lord Action, in a letter to Bishop Mandell Creighton, 1887.*

2 Appendices, pleadings, medical transcript, sworn testimonies, Petitioner's deposition where the Respondent misstated facts, changed and manipulated deposition sentences, altered court documents, only then a fair decision based on the merit of these inferences would be determined.

Magistrate did not give any latitude toward the Pro se himself nor his representation and argument of his case, but proved to be an advocate.[3] The actual statement submitted to the Court with altered points is included in the rehearing request at Apx CC[3a](pgs.1- 6). Petitioner complains of Statement being altered in the following pleadings to the lower Courts: (Apx EE dated 7/1/04 pgs.1and 2), (Apx FF pgs.2, 10, and 11), (Apx GG pgs. 4 – 13), and (see Apx HH, pgs. 1-5, 11- 18, and 30- 33). At the Respondent's request (see Apx DD pg 1), the Magistrate selected points from the initial Summary [40-1], contrary to what he originally stated he would base his decision from. (See Writ pgs 6 -11, and Apx I 87A–104A), (Apx F, pgs 53A- 55A). The Magistrate's report exhibited favoritism towards the Respondent, proctoring the case supporting bias. Therefore; violations were committed. [3b]There are genuine issues of dispute, regarding the *at-will* status of the Petitioner, unilateral contract, DOE contract, and pre-discharge policy 2.7 within the 5B manual and employee's handbook[4]

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3 Both Judges excused non compliance of rules within the Court in addition to violations made by Respondent counsel. The Pro se was held to a stricter requirement. See (Writ Apx H, pg. 61A). The Magistrate incorporated altered information into his report. See first (Ct. Writ Apx I, Pgs. 87A – 104A), also (Writ pgs. 9 – 15) and, (Apx CC, pgs.1- 6)

3a Petitioner's Writ of Certiorari used appendices with a single alphabet, to better distinguish between the Writ appendix and the Rehearing appendix, (i.e. double alphabet as; "Apx. CC" will be used).

3b Not following Federal Rule of Civil Procedure (56c) standards. The Petitioner did not receive procedural due process in violation of the 14th Amendment to the U.S. Constitution.

4 The Magistrate contradicted his own testimony on 06/14/04 which he recited in Court on one occasion "***The question becomes, are the policies, do they rise to the level of a contract? That's a legal issue but based upon a factual predicate***." can this statement be supported in one court and contrarily stated as a legal issue by the Magistrate on and the District Judge in the report dated 7/19/04 and 3/31/05 that "There are no genuine issues of dispute?" See Ctr. Apx. I 99A – I102A, Writ pgs 20-26, and (Writ Apx C Pgs10A-17A). The axiom of South Carolina law currently follows the employee exception rule where the at will status is

altered from the writings or language within a document. When the writings of an employee handbook exist the Court should defer to a jury to interpret the language from the facts of the handbook. The Courts have affirmed that; permanent employees working under an employment offer with invested benefits, or compensations, rises to a level of a unilateral contract: the Petitioner was given those benefits under the offer of employment upon hire and currently has a vested pension in place with WSRC; see *Opinion[576] [14] Curtiss-Wright Corp. v. Schoonnejongen, 514 U.S.73, 78, 115 S. Ct 1223, 131 l. Ed. 2d 94 (1995)* See *Feifer v. Prudential Ins. 306 F.3d 1202, 12 (2d Cir.(2002).* The unilateral tangibles are construed against the employer who drafts the conditions of a work offer without input from the employee. Therefore a stalemate exists if the Supreme Court does not review this case.[5] If this case is not reviewed, the S.C. 4th Circuit Court is in violation of S.C. contract and employment law.

II. Preservation of justice and law vs. freedom to apply Supreme Court Rule10

This is a sworn duty under the U.S. Constitution to uphold the law, protecting its citizens as well as the minority Pro se when Courts don't follow the laws. Affirming the lower Court's decision in this case the Respondent recognized that

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5 Characteristics of this case drape on the lower court interpreting the languages of a handbook disregarding genuine legal facts of disputes. The essence of the Supreme Court Rule 10 requires a review and compliance. See (Writ Apx D, pgs 37A-45A). See fact finding and interpreting the law at (Writ Apx C, pgs 10A-17A). When Judge Harwell determined that the Petitioner was an at-will employee and afforded no rights of protection arising from the 5B handbook, DOE contract, DOE Order 350.1, 5Q, 8Q, 2.7, 2.9, and other policies within the 5B manual, the Judge crossed the thresholds of the Laws of South Carolina that were previously affirmed by the Appeals Court in *Conner, Supra, at 610, Small I & Small II, Prescott, Baril Court supra, Miller at 127, Williams at 32, 26, and in Kump v. United Telephone Company of the Carolinas, 429 S.E. 2d 869 (S.C. App. 1993)*

the 4th Circuit Appeals Court did not follow S. C. exception law to the at will status. See Respondent's Question (4) in response to the Petitioner's Writ dated 3/10/06

III. It is a Fundamental Right under the U.S. Constitution to request a review when procedural due process is violated.

Denial of this case should not conclude merely with the normal standard as articulated under the Supreme Court Rule 10 compelling reasons[6]. The Pro se Petitioner should be allowed a degree of liberalism to review the facts from Court transcripts, the Respondent's 5B employee handbook manual, and relevant documents to show the lower Courts biased their decision and there are inconsistencies to the record.

IV. This case assembles on disputed facts and the relevance of a contract.

As vocalized in the hearing on 6/14/04, the Petitioner contended that the Respondent's 5B manual and the DOE Contract formed the basis of a contract between WSRC and their employees. See Writ Apx I 99A – I 102A. The Respondent disputes that a contract exists between Westinghouse and Petitioner. Therefore, Respondent's regarding the standard for employment "handbook exception rule" and Fed. R. Civ. P. 56 (c) for Summary judgments must be vacated due to a genuine issue of disputed facts exist. The Court recognizes a Summary judgment is denied when there are disputed issues of a material fact against the core argument of a case. An adverse posture of this Court relative to this case will establish a negative precedence concerning genuine disputed facts. Consequently, this will

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6 In this case, violations against the U.S. Constitution were abridged under procedural due process protecting the rights of the Pro se. Therefore as a citizen of the U.S., I have the absolute right under the law to request that this Court considers an unbiased review of the case, pursuant to *the 11th and 14th Amendment and the 1964 Title VII Act U.S.C.A. § 1993 that guarantees these unalienable rights and protection against such judicial acts. Where biasing by the lower Courts as units of the U.S. Judicial system has no immunity against the Constitution or*

render similar cases defenseless to any Summary motion; see Fed. R. Civ. P. 56(e). The 4th Circuit position should have followed the previous holding which the exception to the at-will status is a question for the jury. The facts presented by the lower Courts and Thompson were altered[7]. Thompson's reply brief on pg 4 note 7 isn't sincere. (Apx MM, pgs20-43) The record shows violations of the 5B manual policies.[8]

IV. 4th Courts have not been open-minded toward contract claims present by minorities.

Core issue: Attendance. Absences were approved[9] contrary to Thompson's account. See Pgs 1 -8 of Thompson's Response dated 3/10/05. Either the policies were followed or they were violated 2.12, 2.24, and 3-3. See Olson dep. concerning Leroy Myrick at Apx LL pgs 16-19 and LL pg 114). The Petitioner's absences on 8/24/01 - 8/29/01 were covered by a doctor's excuse. Clarification is shown with the attached (Apx EE pgs 3 and 14), listed conditions were satisfied, and (Apx BB, pg 10-13) specifically supports a–

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private claims. (Board of Trustees of Univ. of Alabama v. Garret (US Supreme Court, 2/21/0) 737. The lower Courts allowed violations against Federal Rules of Civil Procedure (Writ Pgs.3-16 and Apx H pgs 62A-63A), Apx D pg 29A ¶ 34)

7 (i. e., Counsel and the Court stated the Petitioner relied only on one provision in the 5B manual to establish his claims). In understanding the truth, not altered facts see (Apx MM pgs 133-139) which states "That what I know of direct" The statement does not preclude the usage of other policies as long as they are a part of the 5B manual. (Apx AA pgs 1-5)

8 (I.e. it was not possible to validate a violation of 5B policy without first addressing the policy requirement). Therefore, not mentioning 2.12, 3-3, 2.24, 2.19, and 2.25 does not restrict the application basis if a violation or breach has occurred from the 5B Manual. On 6/14/04 the Court established the basis for determining this case as a legal issue based on factual predicate. It can not be stated to the record as a genuine legal issue of dispute on (6/14/04, Writ Apx I pgs 99A – 102A) and not be the same legal issue on 7/19/04. The lower Courts cannot have it both ways.

9 The Petitioner received write ups for taking personal short vacations (S.V.) approved by management. See Petitioner's (Apx. II, deposition Pgs. 6- 9) Seaborn's sworn statement when asked " the different about

doctor excuse and approved time off. Respondent's recited to the Court on June 14, 2004, (Writ Apx I pg 95A), the absences warned against unexcused and needed a doctor note as well. This was specifically one of the points Thompson tried to omit from the Statement of Uncontested facts because it establishes the conditions were satisfied. Disputes against Seaborn's allegations are presented to the record in L1[9] notebook notes and deposition: Seaborn impeached his deposition by approving and excusing absences but wrote a consequence Seaborn fabricates a document after the Petitioner was terminated[10]. Seaborn was a member of the committee which determined the Petitioner's Probation[11] **Core issue: 2)** Thigpen's conduct presented in L2[10] notebooks notes show abuse. Thigpen had personal animus against the Petitioner[12]. Westinghouse Human Resources Adrian Smith documented Thigpen has a history of unprofessional behavior (Apx JJ pg 913). HR's Leroy Myrick specifically recommended Thigpen's removal from a Supervisory position for abuse of employees (Apx JJ exhibits (938, 939, and 942). Thigpen was disciplined for

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the plaintiff requesting and granting personal vacation time off?" Seaborn responded "didn't have it, the lack thereof, was completely out by April 2000." Contrary, (Apx II$_{2-4}$) specifically documents requested time off was approved and granted, taken **6 short vacations** and been late 3 consecutive days. Respondent's (Policy 2.12, Writ Apx MC pgs 217A-218A) states when vacation is approved or used, it is not considered as absenteeism. Therefore contact was illegal once the approval was given. As pointed out in the Petitioner's Reply on pgs 3, 4, and 5, Respondent's policy 3-3, Writ Apx MF pg 268A specifically states make-up time is considered the regular schedule when made up. Seaborn told this Court at Apx II pgs 19and 22 the time was made up. See (Apx II pgs 570-571).

10 The note that Repondent's Counsel referred to in his reply concerning remaining civil was specifically testified to in Seaborn's sworn deposition at ApX II pg18-19 that he gave his management a document after the Petitioner had intent to sue. Remember on pg 2 of Seaborn's deposition he emphatically stated he did not keep privates notes or private dossier on the Petitioner. Contrary, on pg 10 the letter in question was never presented to the Petitioner and only publicized secretly when a suit was filed. Seaborn's entire deposition is deceitful, and the attached cursing and threatening

a radiological inspector and his supervisors. Thigpen cursed and yelled in the deposition hearing. (See Apx JJ, pgs 949 – 951) and (Thigpen's Dep Apx JJ pgs 14-22, 27-22). Both Thigpen and Respondent Counsel admit to Thigpen raising his voice trying to talk above the Petitioner on 8/27/01, the date leading to Thigpen inaccurate account of the phone conversation. See (Apx. JJ pg 42-45). See also the (Uncontested Fact ¶ 38 Apx CC pg4). Thigpen displayed the same behavior in the Oppenheimer case due to challenging his decision. (Apx LL pgs 3-13 of Olson was aware of Thigpen's abusive behavior)[13] The abuse is repeated by Thigpen when the Petitioner challenged his statement by the 5B manual 2.24 and 2.12 concerning reporting to management[14] Contrary, the 5B manual presented to DOE and the Respondent's employees does require Westinghouse to follow a specific process when an employee (Petitioner) has worked in conditions as a radiological workerII, having been exposed to acute doses of radiation levels daily collecting process samples from

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Petitioner's pleading at Apx GG, pgs 1-18 documents this violation of truth vs. documents to the record. Seaborn wrote informative write- ups building a system, then in his deposition he stated they were not used for disciplining (Seaborn Dep. Apx II, pg 22-30) Apx II 454 and 4). Contrary, Thigpen specifically admits on (Dep Apx. JJ pg 8), the informative write ups were part of the disciplinary committee meeting. Consequently, Respondent violated 2.7 pre-discharge policies by including informative write ups as part of a disciplinary program to support a probation or termination. (See Writ Apx 170A) and (Apx II, 2e). Dave Olson forced Seaborn to remove an informative write up for not being appropriate (Apx. II, pg14. Seaborn states he agreed to removal of the write up but Olson called the write-up inappropriate Olson's dep. Apx LL pg 10-11).

11 How fair it that the same accuser of allegations helps determines the level of discipline. Olson specifically stated to the contrary that the discipline board was made up from non bias board members with non management involvement. (Seaborn, Thigpen, Botnick, and Olson attended the review meeting and gave input for shaping the outcome of the inappropriate probation and termination, See (Olson's dep Apx LL pgs 16-28). See (LL Apx exhibits WSRC Lawr 454 , 676 and 678). See Thigpen's sworn statement of attendees at (Apx JJ, pg 8).

dissolved reactor fuel rods. The 5B manual policies do not allowed the Respondent to have a guide for operating but treat it as illusion when it does not benefit a need. **Core issue: 3)** Probation disputes to the record in Dr. Botnick's L3[11] notebook notes, dated 7/05/05 show Petitioner was skipped to a higher degree of discipline against the pre-discharge policy 2.7. See Apx JJ pg 676 listing a corrective step process. The Pre-discharge 2.7 policy at Writ Axp 172A – 180A documents a step process. Respondent can not announce and apply a pre discharge and termination policy reserving the right to follow it at will[15]. The Respondent's doctor report specifically documented no evidence was given

12 Thigpen had constant conflict with Respondent's management and employees. See (Apx. JJ pgs. 940 and 941). Earl Brass, a level manager. deposition statement, notes Thigpen's behavior should be punished at a higher level other than a corrective action was written up by Mr. Brass for violating Respondent's Rules of conduct (Brass Dep. Apx JJ exhibit 69 - 76). Thigpen participated in a disciplinary board meeting in violation when it was determined that the Petitioner's probation and termination was in process. Thigpen was questioned in detail then admitted in his deposition (Apx JJ pg3-4 he was reprimanded, charged with discriminating acts, practices of harassment).

13 Thigpen admits his flashpoint is probably a little higher (see Apx JJ pg 18). Thigpen was demoted around 10/04 after an additional write up and under investigation for harassing another black employee, Larry Davis. See statements from Respondent's managers (SOM) and employee at (Apx JJ pgs 938, 939, and 942) Thigpen's violations of Respondent's Rules of Conduct consist of having sexual intercourse with another employee on WSRC property, cursing both management and employees, threatening employees, falsifying a lock out for Hazardous energy, and becoming aggressive toward a female co-workers threatening, and intimidation (Thigpen's Dep. Apx JJ pgs 2and 3).

14 Thigpen became livid and starting yelling over the phone which caused the Petitioner to yell back and ask him "was he a dumb ass and state his problems were that he did not listen" See (Dep at Apx MM, pgs). Thigpen wrote his version of the incident (Apx JJ, pg 666) to Dave Olson who already had personal animus against the Petitioner. Contrary the Petitioner did notify WSRC management (Apx JJ pg 658) and Writ Apx MD pg 223A and Apx MC pg199A that Apx JJ pg 658 show Chuck Orman and David Nason (supervision and management was notified) Human Resources based their decision only from Thigpen's account. There was nothing in the conversation with Dave Olson on the 31st of upon the